

**BOARD OF SELECTMEN
MEETING MINUTES
THURSDAY, MAY 12, 2005
ABLONDI ROOM**

Attendance: Katherine E. Murphy, Chair; John H. Stasik, Vice-Chair; Charles J. Sisitsky, Clerk; A. Ginger Esty, Member; Dennis L. Giombetti, Member

Staff: George P. King, Jr., Town Manager; Mark J. Purple, Assistant Town Manager; Matthew A. Romero, Executive Assistant

The Chair called the meeting to order at 7:00 PM, and reviewed the agenda for the evening.

Public Participation

Harold Wolfe

Mr. Wolfe heard that the pension fund was under funded and asked Mr. King to confirm this. Mr. King agreed that the pension fund had been historically under funded, and gave a brief history of pension funding in the state. Most recently, it was about 69% funded, or about \$40-\$50M.

Consideration of a Common Victualer license transfer request for Zesto's Kafé Bakery (151 Cochituate Road – continued)

Mr. Nelson Cognac was present to discuss the transfer request. Mr. Sisitsky did not recall that Main Street Bakery had a Common Victualer (CV) license previously, so wondered if it should have been applied for as a new license. Mr. Cognac explained that he had been instructed to apply for a transfer. Ms. Murphy recalled that the previous owner had had tables and chairs toward the end, but she could not recall granting them a CV license. Mr. Cognac explained the kind of food that would be served, and explained his background in the field.

MOVED: To grant the Common Victualer license.

Motion: Mr. Sisitsky

Second: Mr. Stasik

VOTE: 4 – 0

Ms. Esty arrived at this time.

Consideration of a Fuel Storage Permit request (1 Doeskin Dive)

Mr. Sorin Marinescu, the owner was present to speak on behalf of the request. He clarified that the cars were his own cars for personal use solely. Mr. Sisitsky noted that the Fire Marshal had submitted a sign-off letter for approval.

MOVED: To grant the Fuel Storage Permit request.

Motion: Mr. Sisitsky

Second: Mr. Stasik

VOTE: 5 – 0

Consideration of a Change of Manager Request for Bertucci's (150 Worcester Road)

Mr. David Abysalh, the proposed manager and the district manager, were present to discuss the application. Mr. Sisitsky asked who was on the license presently. Mr. Sisitsky clarified that the managers listed on the license currently had not worked there for six months. Mr. Sisitsky pointed out that not having a valid manager on the alcohol license was a violation of the alcohol license policy. The district manager explained that the corporation often moved managers around from store to store. Mr. Sisitsky asserted that the policy was very clear. Mr. King suggested referring the matter to the Licensing Officer. Mr. Sisitsky suggested approving it and then pursuing the violation separately.

MOVED: To grant the Common Victualer license.

Motion: Mr. Sisitsky

Second: Ms. Esty

VOTE: 5 – 0

Consideration of an application to fill a vacancy on the Board of Library Trustees

Ms. Murphy noted this was a joint meeting between the Board and the Library Trustees. Mr. Rob Dodd, Chair, and the other members of the Board of Library Trustees introduced themselves. Mr. Dodd explained that the Trustees had unanimously agreed upon the applicant, Mr. Brendan St. George, and gave a brief background about him. Mr. Dodd also noted that he had run for the Board of Trustees as a write-in candidate previously. The previous candidate had chosen to become a Town Meeting Member.

MOVED: To appoint Mr. St. George to the Library Board of Trustees.

Motion: Mr. Sisitsky

Second: Ms. Esty

VOTE: 5 – 0 (the Trustees had also voted unanimously to approve Mr. St. George)

Conference – David Keniry, Nuisance By-law Inspector

Mr. Keniry, Code Compliance Officer, gave his professional background to the Board. He was here to address two issues relating to the March 31, 2005 meeting at which Town Meeting Member, Ms. Kathie McCarthy, had contested a citation issued to her. Mr. Keniry discussed the matter further, and explained he was appalled that the Board allowed a Town Meeting Member to slander a Town employee repeatedly and by name. Mr. Keniry rebutted some of Ms. McCarthy's claims and clarified the situation further for the Board. He explained that her claim that her appeal rights were not explained to her correctly, but they were written clearly on each of the citations, he had spoken to her twice explaining them to her, Mr. Mikielian, Building Inspector, had verbally explained them to her, Mr. King had explained them to her at the March 31, 2005, Mr. Mikielian sent a follow up letter, and Mr. Purple also had sent a follow up letter.

Mr. Keniry then broached the subject of the Board's involvement in enforcement of the nuisance by-law. Mr. Keniry referenced the acceptance of Chapter 40, and its relationship to the enforcement of the nuisance by-law. The appeal under these provisions is strictly through the court system. Mr. Keniry expressed concern over the Board's granting of a *de facto* appeal to one individual and its potential consequences for the future.

Mr. Sisitsky stated that he had the greatest respect for Mr. Keniry's abilities and thought he did a good job, but pointed out that the Board allowed individuals to discuss concerns under public participation. He thought that the Board was well within its rights to have Town Counsel review an issue and clarification of a questionable definition. Mr. Sisitsky understood that he was upset, but took exception to some of Mr. Keniry's comments toward the Board. Ms. Esty clarified that her comment had been to have a general letter to admit a mistake being made, not a suggestion to apologize for that matter. Ms. Murphy felt that the whole episode was very regrettable, and she had been under the impression that he had been scheduled to come in to discuss his job. She acknowledged that the Board was reviewing its public participation policy, and agreed that it was not the forum for certain grievances to be discussed. She apologized personally to him for the matter. Mr. Stasik noted that he had been present that evening, and had an individual name not been used, the tone of the event would have changed. He agreed with the Chair that he had been put in an awkward position, and felt the response was strong but justified because his professional integrity had been put in question by the specific mention of his name. Mr. Stasik also apologized to him, and thanked him for his good work for the Town. Mr. Keniry thanked Ms. Murphy and Mr. Stasik for their apology, but he was most concerned about the suspension of an ongoing law enforcement technique because he was concerned that the Board was exceeding its authority.

Mr. Bill McCarthy, husband of Ms. Kathie McCarthy, was present to discuss the matter, as Ms. McCarthy was in the hospital. Mr. McCarthy acknowledged that Mr. Keniry was upset at the matter being discussed publicly, and sympathized with him. He explained that public participation had not been her first choice, and contended that the nuisance by-law process was not being followed. Mr. King pointed out that there was no provision for the Town Manager to become involved in the process because the appeal provision is through the courts. Mr. McCarthy thought that anonymous complaints should be disregarded, and Ms. Esty pointed out that the provision had been made to prevent friction between neighbors when reporting potential violations.

Policy Subcommittee Report

Ms. Murphy and Mr. Stasik brought forth two policy changes, including the public participation policy and reimbursement of Selectmen's expenses. Ms. Murphy noted that they had reviewed the matter the previous year, but it had been returned due to subsequent concerns. Mr. Stasik suggested that the Board discuss what it wanted to have accomplished with Public Participation, that the goals be clearly defined and its limitations clearly outlined. Ms. Murphy explained that the conclusions they came to was that not every topic should be discussed during this time. She highlighted the specific changes. Ms. Esty pointed out that the existing policy provided for the Assistant Town Manager to follow up on issues raised during public participation. She expressed a desire to formalize a system for follow up to ensure matters were being addressed. Ms. Murphy noted this was a first reading, and suggested perhaps holding a public hearing to discuss the matter further. Mr. Stasik stressed the importance of the change to the policy particularly with regard to the decorum of addressing speakers. Mr. Giombetti agreed with Ms. Esty's comment that a formalized system for following up on the issues presented should be included in the policy. Mr. Sisitsky felt that certain items that were

not of a general interest that did not require immediate action should be referred to a future agenda.

MOVED: To accept the first reading, schedule a public hearing for next week, and place the policy on the website.

Motion: Mr. Sisitsky

Second: Ms. Esty

VOTE: 5 – 0

Mr. Stasik noted that the second policy, dealing with reimbursements to individual Board members for out-of-pocket expenses, was in response to the removal of Board stipends and was new in nature. This policy would be mostly to formalize the process, as no limits on reimbursements had been stipulated. Mr. Sisitsky was concerned about the end of the fiscal year proceedings and how that would work. Mr. King suggested using July 15 as the cut-off date for any reimbursements incurred in June. Mr. Giombetti asked about the process for prior approval necessary for travel or accommodations, noting that most policies had such provisions. Mr. Sisitsky suggested requiring a formal vote of the Board for meetings out of the state or in state overnight conferences. The policy subcommittee would bring the policy back for a second reading.

Consideration of a request for a letter of support for Advocates – Jim Grasberger

Mr. Jim Grasberger was present to discuss the matter, and presented background information to the Board. Mr. Sisitsky expressed concern for groups like Advocates buying property and then subsequently asking the Board for support, without notifying the neighborhood prior to the changes being made. He supported these types of projects and felt that the services were very useful and necessary, but wanted to look out for the residents and neighborhoods affected. Mr. Grasberger noted that the abutters had been part of the discussions for this particular project. The vice president for Advocates informed the Board that they had approximately 85 properties located in 40 communities. He noted that they were about 30% owned to 50% owned. Mr. Sisitsky asked what the specific needs of the clientele would be. Ms. Diane Gould, Senior Vice President explained that the purpose of the program was to provide support for people with psychiatric disabilities. She explained the background for Advocates' program for this clientele. Most of the people supported in these types of facilities had paid employment, were enrolled in day programs, or were retired. Mr. Stasik wondered if a way could be instituted to make sure the Board knew about these residences beforehand. Mr. Sisitsky suggested inviting all of the major social service agencies to have general discussions in this regard. Ms. Esty asked who would be paying taxes, and expressed concern of them being taken off the rolls. She also expressed concern about the qualifications and accreditation of the staff members. Ms. Gould explained that the supervisors generally had masters degrees and years of experience. Mr. Sisitsky suggested having the meeting and supporting the grant application, and made a motion to that effect. Ms. Murphy agreed. Mr. Stasik asked how the support fit in to the requirements for HUD. Mr. Grasberger explained that local support was not a requirement, but the Board's support would help the application greatly.

MOVED: To support Advocates' application for the grant and holding a meeting of the various social service agencies.

Motion: Mr. Sisitsky

Second: Mr. Stasik

VOTE: 5 – 0

Consideration of nominations for the Framingham Union Grants Panel of the MetroWest Community Health Care Foundation

Ms. Murphy informed the Board that the appointments were going to expire soon. Mr. King offered to advertise the position with the other reappointments. Mr. Giombetti suggested having Mr. Cohen from the MetroWest Medical Center come in to discuss their program with the Board.

MOVED: To table until advertised.

Motion: Mr. Sisitsky

Second: Mr. Stasik

VOTE: 5 – 0

Consideration of a proclamation for Arbor Day

Mr. Sisitsky inquired why the date had already passed, and was informed that this was an annual proclamation that was necessary to receive funding, and that the Tree Warden had requested it for that purpose.

MOVED: To approve the proclamation.

Motion: Mr. Sisitsky

Second: Ms. Esty

VOTE: 5 – 0

Town Manager's Report

Budget Update

Mr. King presented to the Board his recommended changes to the budget. The preliminary budget had been issued February 25, 2005 as required by the Town Manager and CFO Acts. The changes since then had been formulaic, including changes in the numbers for the Keefe Tech assessment, debt service, state aid, and the charter school. In the interim a sub-committee had been established including the Board, the School Committee and the Finance Committee. This subcommittee had recommended postponing discussion until June. Although the state budget information had not improved much in that time, it had been a good suggestion at the time. A final recommendation to Town Meeting needed to be made with the information available. Mr. King explained the options: accept and make cuts, wait longer, or make educated and reasonable recommendations. Mr. King suggested three points to bridge the gap. He suggested reducing recommended increase to a projected 10% increase. He suggested directing the full amount of the additional Chapter 70 funding from the House toward the school budget instead of utilizing the formula split. Thirdly, he suggested diverting the free cash originally designated for the capital budget directly to the school budget. He recounted the free cash policy utilized in recent years, and pointed out that it had been working very well. He emphasized that the total amount being spent on the capital budget would not be diminished, but would be funded through other methods – re-bonding and closed out projects. Mr. King admitted he was not entirely comfortable with

this option, but this preserved the spirit of the free cash policy and the balance sheet would not appear any different. If this plan was enacted, the municipal deficit would be \$205K, and the school budget would increase approximately \$2.4M. He noted that his concerns were the \$200K deficit, the structural school budget deficit of about \$800K, and the traditional budget busters, snow and ice, energy, and health insurance.

Mr. Stasik asked if any other details would change in the budget, and Mr. King said they would not. Mr. King would be meeting with the Finance Committee on Tuesday evening, presenting to Town Meeting Members next Wednesday, and discussing the budget with Ways and Means the following week. Mr. Giombetti agreed that the solutions were creative to get through this year, but there were risks. He suggested that if Town Meeting approved the plan, that the Board monitor the problem areas closely to react as necessary. He also suggested forming a subcommittee to provide an ongoing discussion for providing long-term solutions such as restructuring the government. Mr. King agreed that that would be very helpful. Mr. Sisitsky was concerned about using non-recurring revenue, but felt that it was a better alternative to cutting services or laying off employees. He also felt that it was important to seriously consider what services would need to be cut if those cuts had to be made so the decisions would not be a last minute effort. Mr. Stasik asked about the school deficit, and Mr. King explained that the Superintendent and the School Committee had been supportive of this proposal. He was unsure of any cuts they would make, but the reaction had been positive from the schools' representatives to the budget subcommittee.

Mr. Stasik inquired about the impact upon the capital budget. Mr. King explained that the capital budget would not be impacted this year, but the actions could have repercussions for future years. Mr. Stasik asked what had been happening to the commitment to capital projects, and Mr. King responded that the number of capital projects had been going down. Mr. King acknowledged that there were many capital needs the Town faced, as demonstrated by his Capital Projects Proposal from the fall of 2004. Ms. Jeanne Bullock, Capital Budget Committee (CBC) Chair, asserted that the School Building Assessment Reimbursements (SBAR) had not been deducted in the spreadsheets being produced by the administration. Ms. Bullock produced alternative spreadsheets that deducted the SBAR funds. Ms. Bullock did not feel the five-year plan was detailed enough, and felt it was very vague. She was opposed to the proposal of diverting the free cash designated for the capital budget to the schools. She was concerned over bonding to make up the difference, since interest would be paid on the bonding. Mr. Stasik was unclear on where the money would come from for the schools in that case. Ms. Bullock suggested taking it out of free cash directly.

MOVED: To support the Town Manager's budget recommendation.

Motion: Mr. Sisitsky

Second: Mr. Stasik

VOTE: 5 – 0

Health Insurance Update

Mr. King reviewed the information for the Board. He explained that the amount of people enrolled in the Town's health insurance plans was increasing, largely due to the

effects of early retirement. He explained that the quarter 4 settlement reflected a credit of about \$1M. This would provide a projected trust fund balance of \$2M. He provided a breakdown of the trust fund inputs and outputs. He presented cost containment strategies, including employee co-payments and plan structure, participation rates, plan availability, and stop loss premium. However, it was important to insure less people, as that was the best way to save money.

The Board thanked Mr. King for his presentation.

Senior Center

Mr. King updated the Board on the Senior Center, noting that it would be ready for move-in by July 10, 2005. Ms. Murphy asked if the sprinklers in landscaping for the parking lot were being repaired. She hoped it was not, and Ms. Esty hoped it would be.

Multiple Hazard Plan

Mr. King informed the Board that it had been completed on the local level and sent to FEMA and MEMA.

Mr. King also informed the Board that the Town had won the Outstanding Municipality Award.

Ms. Murphy asked about the Water and Sewer Rates, and Mr. Purple explained that it had taken time to secure a consultant to review the methodology of calculating water and sewer rates. Due to this, there would not be time to implement the new method prior to setting the water and sewer rates. Mr. King pointed out that the Board could make a mid-year correction or adjustment once the changes had been made. Mr. King also noted that he hoped to include a potential impact of changing the rate structure for apartment and condominium developments as part of this year's presentation.

Ms. Esty asked about the Housing Authority's problems with the water bill. Ms. Esty asked why the School Committee had been absolved and not the Housing Authority. Mr. King explained that the Housing Authority was an independent agency with independent funds. Overall, the bottom line of the Town was not affected by absolving internal agencies, although it did impact the enterprise funds.

Mr. Giombetti wanted to recognize Mr. Fitts for his work on the downtown store fronts.

Ms. Esty discussed two calls she had received with the Manager. One caller had asked if school bus drivers were allowed to use the vehicles for personal errands. Mr. King said he would look into the matter further. The second caller discussed parking on the sidewalk near the corner of Prindiville Avenue and Concord Street.

Housing Liaison Subcommittee Update

Ms. Murphy updated the board on the Housing Liaison Subcommittee (HLS). She discussed the letter that had been sent out from the HLS. She discussed a grant the Town had secured, and the consultant that had been engaged to assist. Ms. Esty explained that

they had been analyzing other towns' housing plans. The grant required that a product be made that the state could use as a future teaching tool. The HLS was trying to create a representative citizen advisory committee by soliciting many local organizations. The consultant had direct communication with Town staff to obtain necessary information in a timely fashion.

Selectmen's Reports

Mr. Stasik

Mr. Stasik wanted to set up an agenda item to join other municipalities supporting the proposed Massachusetts Land-Use Reform Act. He wanted to have a brief ten minute presentation on the matter. He also wanted to have Ms. Kathy Lewis, the CTP expert on bikes to discuss bike trails through the Town.

Mr. Stasik noted that Senator Karen Spilka had decided to make the creation of a Regional Transit Agency her top priority. There would be a task force formed to look at the various options.

Mr. Stasik requested that a recycling barrel be set up at Town Meeting. He also requested that the packets be double-sided, and that any superfluous material be placed in one copy only, such as lease agreements for license applications.

Ms. Esty

Ms. Esty pointed out an area where idling regulations were not being enforced.

Ms. Esty informed the Board that CSX was considering a large platform at the end of Henry Street for companies that did not have loading platforms to drive trucks. Mr. King said he would talk to Ms. Kathy Bartolini about the matter. Mr. Purple noted that an engineer for CSX had been looking for sites in several towns for sites as described by Ms. Esty for vendor pick up. They had discussed the matter with the Building/Wire Department, and it had been discussed at an infrastructure meeting. Ms. Esty asked about the possibility of Selectmen attendance at the infrastructure meeting, Mr. Sisitsky felt that it was inappropriate to have the Selectmen sitting in on the Town Manager's staff meetings for the Town.

Ms. Esty was concerned about Verizon hanging advertisement for FOIS, and asked the Manager to check into whether or not this would require a contract with the Town for cable services.

Ms. Esty asked for sex offenders to be placed back on the pending list, and Mr. King said he would add it.

Ms. Esty had submitted questions to Town Counsel about the mismatched numbers on the PUD agreement. She asked how many houses were included in the agreement. Mr. Stasik clarified that no single-family homes were included in the PUD. Ms. Esty asked for something in writing since we had submitted a request in writing, and Ms. Murphy explained that she had made another call in to the DEP.

VOTE: 3 – 0 – 2 (Mr. Giombetti, Mr. Stasik)

Consideration of Executive Session minutes from November 30, 2004

MOVED: To approve the minutes as submitted.

Motion: Mr. Sisitsky Second: Ms. Murphy

VOTE: 3 – 0 – 2 (Mr. Giombetti, Mr. Stasik)

Consideration of Executive Session minutes from December 9, 2004

MOVED: To approve the minutes as submitted.

Motion: Mr. Sisitsky Second: Ms. Murphy

VOTE: 3 – 0 – 2 (Mr. Giombetti, Mr. Stasik)

Consideration of Executive Session minutes from December 16, 2004

MOVED: To approve the minutes as submitted.

Motion: Mr. Sisitsky Second: Ms. Murphy

VOTE: 3 – 0 – 2 (Mr. Giombetti, Mr. Stasik)

Consideration of Executive Session minutes from January 20, 2005

MOVED: To approve the minutes as submitted.

Motion: Mr. Sisitsky Second: Ms. Murphy

VOTE: 3 – 0 – 2 (Mr. Giombetti, Mr. Stasik)

Consideration of Executive Session minutes from January 24, 2005

MOVED: To approve the minutes as submitted.

Motion: Mr. Sisitsky Second: Ms. Murphy

VOTE: 3 – 0 – 2 (Mr. Giombetti, Mr. Stasik)

Consideration of open session minutes from March 3, 2005

MOVED: To approve the minutes as submitted.

Motion: Mr. Sisitsky Second: Ms. Murphy

VOTE: 3 – 0 – 2 (Mr. Giombetti, Mr. Stasik)

Consideration of open session minutes from March 10, 2005

MOVED: To approve the minutes as submitted.

Motion: Mr. Sisitsky Second: Ms. Murphy

VOTE: 3 – 0 – 2 (Mr. Giombetti, Mr. Stasik)

Consideration of Executive Session minutes from March 10, 2005

MOVED: To approve the minutes as submitted.

Motion: Mr. Sisitsky Second: Ms. Murphy

VOTE: 3 – 0 – 2 (Mr. Giombetti, Mr. Stasik)

Consideration of open session minutes from April 7, 2005

MOVED: To approve the minutes as submitted.

Motion: Mr. Sisitsky Second: Mr. Stasik

VOTE: 5 – 0

Consideration of open session minutes from April 14, 2005

MOVED: To approve the minutes as submitted.

Motion: Mr. Sisitsky Second: Mr. Stasik

VOTE: 5 – 0

Executive Session

MOVED: To move into Executive Session for the purposes of discussing real estate negotiations.

Motion: Mr. Stasik Second: Mr. Sisitsky

VOTE: 5 – 0 (roll call vote)

Upon returning from Executive Session.

MOVED: To adjourn at 11:40PM.

Motion: Mr. Sisitsky Second: Ms. Esty

VOTE: 5 – 0 (roll call)

Respectfully submitted,

Charles J. Sisitsky, Clerk